



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2017–N040; FXES11130800000–178–FF08EVEN00]**

**Low-Effect Habitat Conservation Plan for the San Lorenzo Valley Water District’s  
Probation Tank Replacement Project in Felton, Santa Cruz County, California**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from the San Lorenzo Valley Water District for a 20-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered Mount Hermon June beetle and Zayante band-winged grasshopper that is likely to occur incidental to the replacement of a water storage tank and infrastructure at the existing water storage tank site in Felton, Santa Cruz County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may download a copy of the habitat conservation plan, draft environmental action statement and low-effect screening form, and related documents on the Internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents

by U.S. mail to our Ventura office or by phone (see **FOR FURTHER INFORMATION CONTACT**). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644-3958.

**FOR FURTHER INFORMATION CONTACT:** Chad Mitcham, Fish and Wildlife Biologist, by U.S. mail to the Ventura office, or by telephone at (831) 768-7794.

**SUPPLEMENTARY INFORMATION:** We have received an application from the San Lorenzo Valley Water District for a 20-year incidental take permit under the Act. The application addresses the potential for “take” of the federally endangered Mount Hermon June beetle (*Polyphylla barbata*) and Zayante band-winged grasshopper (*Trimerotropis infantilis*) likely to occur incidental to the replacement of a water storage tank and infrastructure on the San Lorenzo Valley Water District’s easement at 3650 Graham Hill Road, (APN: 061-371-16), Felton, Santa Cruz County, California. We invite comments from the public on the application package, which includes a low-effect habitat conservation plan. This proposed action has been determined to be eligible for a categorical exclusion under the National Environmental Policy Act of 1969 (NEPA), as amended.

## **Background**

The U.S. Fish and Wildlife Service (Service) listed the Mount Hermon June beetle and Zayante band-winged grasshopper as endangered on January 24, 1997 (62 FR 3616). Section 9 of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations

prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “Incidental Take” as take that is not the purpose of carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are provided at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. All species, including plants, covered by the incidental take permit receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)). In addition to meeting other specific criteria, actions undertaken through implementation of the habitat conservation plan (HCP) must not jeopardize the continued existence of federally listed animal or plant species.

### **Applicant’s Proposal**

The San Lorenzo Valley Water District (hereafter, the applicant) has submitted a low-effect HCP in support of their application for an incidental take permit (ITP) to address take of the Mount Hermon June beetle and Zayante band-winged grasshopper

that is likely to occur as the result of direct impacts on up to 0.432-acre (ac) (18,800 square feet (sf)) of sandhills habitat occupied by the species. Take would be associated with the replacement of an existing water storage tank and infrastructure on an existing parcel legally described as Assessor Parcel Number: 061-371-16. The current site address is 3650 Graham Hill Road in Felton, Santa Cruz County, California. The applicant is requesting a permit for take of Mount Hermon June beetle and Zayante band-winged grasshopper that would result from “covered activities” that are related to replacement of the existing water tank.

The HCP’s conservation strategy also addresses potential impacts to the federally endangered Ben Lomond spineflower (*Chorizanthe pungens* var. *pungens*) and Ben Lomond wallflower (*Erysimum teretifolium*), which are known to occur at the proposed project site or within the proposed conservation easement area. The applicant’s conservation strategy, in part, proposes the dedication of a conservation easement on 6.7 ac of habitat that contains habitat for all four of the species addressed in the HCP. A 20-year incidental take permit is requested to authorize take that would occur incidental to the water storage tank replacement project, and also to cover potential short-term impacts to all four species within the conservation easement area as a result of habitat enhancement.

The applicant proposes to avoid, minimize, and mitigate impacts to the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond wallflower, and Ben Lomond spineflower associated with the covered activities by fully implementing the HCP. The following measures will be implemented: (1) Temporary fencing and signs

will be installed to clearly delineate the boundaries of the project; (2) if construction occurs during the flight season (considered to be between May and August, annually), exposed soils will be covered with erosion control fabric or other impervious materials to prevent any dispersing Mount Hermon June beetles from burrowing into exposed soil at the construction site; (3) employment of a Service-approved entomologist to capture and relocate into suitable habitat and out of harm's way any Mount Hermon June beetle unearthed or observed during construction activities; (4) employment of a Service-approved biologist to ensure Zayante band-winged grasshoppers disperse from the proposed project area prior to ground disturbing activities; (5) collecting seed of the Ben Lomond spineflower within the project area prior to the initiation of ground disturbing activities, so that the seeds can be used in the post-construction restoration of temporarily-disturbed areas; and (6) permanently protect habitat for the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower to mitigate for habitat impacts through the permanent protection of 0.995-ac of high quality habitat within the proposed 6.7-ac conservation easement; or, the purchase of 0.813-ac of conservation credits at the Zayante Sandhills Conservation Bank. The applicant will fund up to \$346,064 to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: "No Action" and "Redesign Project." Under the "No Action" alternative, an ITP for the water tank replacement project would not be issued. The proposed conservation strategy and subsequent habitat conservation would not occur, or, alternatively, the

purchase of conservation credits would not be provided to effect recovery actions for the impacted species. The “No Action” alternative would not result in necessary improvements to the existing water tank and would not result in a net benefit for the covered species; therefore, the “No Action” alternative has been rejected. Under the “Redesign Project” alternative, the existing tank would be replaced with a new smaller tank that would fit within the existing footprint, with temporary impacts occurring within an approximately 0.12-ac area. Under this alternative the new tank would not provide enough water storage for fire and/or other emergencies in addition to meeting existing water demand. Under this alternative the District would permanently protect and manage a smaller area within the conservation easement, or purchase fewer credits at the Zayante Sandhills Conservation Bank. This alternative would present a significant burden to the District without significantly reducing potential impacts to the impacted species; therefore, the “Redesign Project” alternative has also been rejected.

### **Our Preliminary Determination**

We are requesting comments on our preliminary determination that the applicant’s proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook . We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on

other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under NEPA (42 U.S.C. 4321 et seq.), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

### **Next Steps**

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

### **Public Review**

We provide this notice under section 10(c) of the Act and the National Environmental Policy Act of 1969, as amended (NEPA), and NEPA's public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or negligible effect on the Mount Hermon June beetle, Zayante band-winged grasshopper, Ben Lomond spineflower, and Ben Lomond wallflower, and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook. We will

evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permits. If the requirements are met, we will issue an ITP to the applicant for the incidental take of Mount Hermon June beetle and Zayante band-winged grasshopper. We will make the final permit decision no sooner than 30 days after the date of this notice.

### **Public Comments**

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

### **Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

### **Authority**

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

**Dated: August 31, 2017**

**Stephen P. Henry, Field Supervisor,  
Ventura Fish and Wildlife Office,  
Ventura, California.**

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